

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

PATRICK R. HOLICKY,

Plaintiff,

CIVIL NO.: _____

v.

CREDITORS FINANCIAL GROUP, LLC,

Defendant.

COMPLAINT

JURY TRIAL DEMANDED

JURISDICTION

1. Jurisdiction of this Court arises under 28 U.S.C. § 1331 and pursuant to 15 U.S.C. § 1692k(d).
2. This action arises out of Defendant's violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. ("FDCPA").
3. Venue is proper in this district because the acts and transactions occurred in this district, Plaintiff resides in this district, and Defendant transacts business in this district.

PARTIES

4. Plaintiff Patrick R. Holicky (hereinafter "Plaintiff"), is a natural person residing in the County of Le Sueur, State of Minnesota, and is a "consumer" as that term is defined by 15 U.S.C. § 1692a(3).
5. Defendant Creditors Financial Group, LLC (hereinafter "Defendant"), is a collection agency operating from an address of 1560 Broadway, Suite 2090,

Denver, CO 80202 and is a “debt collector” as that term is defined by 15 U.S.C. § 1692a(6).

FACTUAL SUMMARY

6. Sometime prior to May 2010, upon information and belief, a third party named Carrie Hrdlichka incurred a financial obligation that upon information and belief was primarily for personal, family or household purposes, and is therefore a “debt” as that term is defined by 15 U.S.C. § 1692a(5).
7. Sometime thereafter, the alleged debt was consigned, placed or otherwise transferred to Defendant for collection.
8. On or about May 17, 2010, Plaintiff received a telephone call from Defendant. Defendant’s debt collection agent requested to speak with Carrie Hrdlichka. Plaintiff explained that he had just received a telephone message from Defendant for Carrie Hrdlichka, who is his mother.
9. Plaintiff asked why Defendant was calling for his mother. Defendant’s debt collection agent stated that Defendant was collecting on a Sears account. Plaintiff explained that his mother did not live at his address and demanded that Defendant stop calling his telephone number.
10. Defendant continued to call Plaintiff. Defendant caused Plaintiff’s telephone to ring on June 23, 2010, July 21, 2010 and July 23, 2010, as well as on several other occasions.
11. The conduct of Defendant in contacting a third party on more than one occasion, particularly after knowing that the alleged debtor did not live at that

address, using conduct the natural consequence of which is to harass, oppress, or abuse a person, causing the phone to ring repeatedly and using any unfair or unconscionable means to collect or attempt to collect an alleged debt is a violation of numerous and multiple provisions of the FDCPA, including but not limited to 15 U.S.C. §§ 1692b(3), 1692d, 1692d(5), and 1692f amongst others.

Respondeat Superior Liability

12. The acts and omissions of Defendant, and/or the other debt collectors employed as agents by Defendant who communicated with Plaintiff as more further described herein, were committed within the time and space limits of their agency relationship with their principal, Defendant.
13. The acts and omissions by Defendant and/or these other debt collectors were incidental to, or of the same general nature as, the responsibilities these agents were authorized to perform by Defendant in collecting consumer debts.
14. By committing these acts and omissions against Plaintiff, Defendant and these other debt collectors were motivated to benefit their principal, Defendant.
15. Defendant is therefore liable to Plaintiff through the Doctrine of Respondeat Superior for the intentional and negligent acts, errors, and omissions done in violation of state and federal law by its collection employees, including but

not limited to violations of the FDCPA, in their attempts to collect this debt from Plaintiff.

Summary

16. The above-detailed conduct by Defendant, of failing to communicate that Defendant is a debt collector and attempting to collect a debt was a violation of numerous and multiple provisions of the FDCPA, including but not limited to all of the above mentioned provisions of the FDCPA and Minnesota law.
17. Plaintiff has suffered actual damages as a result of these illegal collection communications by the Defendant in the form of anger, anxiety, emotional distress, frustration, embarrassment amongst other negative emotions.
18. Defendant's negligent and/or intentional acts resulted in the violation of numerous provisions of state and federal law and resulted in actual damages to the Plaintiff.

TRIAL BY JURY

19. Plaintiff is entitled to and hereby respectfully demands a trial by jury. U.S. Const. amend. 7. Fed.R.Civ.P. 38.

CAUSES OF ACTION

COUNT I.

VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT

15 U.S.C. § 1692 et seq.

20. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
21. The foregoing acts and omissions of Defendant and its agents constitute numerous and multiple violations of the FDCPA including, but not limited to, each and every one of the above-cited provisions of the FDCPA, 15 U.S.C. § 1692 et seq., with respect to Plaintiff.
22. As a result of Defendant's violations of the FDCPA, Plaintiff is entitled to actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages in an amount up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A); and, reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3), from Defendant herein.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against Defendant:

COUNT I.

VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT

15 U.S.C. § 1692 et seq.

23. for an award of actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against Defendant and for Plaintiff;

24. for an award of statutory damages of \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A) against Defendant and for Plaintiff; and
25. for an award of costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3) against Defendant and for Plaintiff.

MARTINEAU, GONKO & VAVRECK, PLLC

Dated: July 30, 2010

s/ Mark L. Vavreck
Mark L. Vavreck, Esq.
Bar Number #0318619
Attorney for Plaintiff
Martineau, Gonko & Vavreck, PLLC
Designers Guild Building
401 North Third Street, Suite 600
Minneapolis, MN 55401
Telephone: (612) 659-9500
Facsimile: (612) 659-9220